IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5018 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GAGJIBHAI RAGHUBHAI, SINCE DECEASED THROUGH HEIRS & L.R.

Versus

BHAVNAGAR PANJRAPOL TRUST

Appearance:

1. Special Civil Application No. 5018 of 1986

MR JA SHELAT for Petitioners No. 1,2-3

MR MC BHATT for Petitioners No. 1,1/1-1/4

RULE SERVED for Respondent No. 1

MR JR NANAVATI for Respondents No. 2-3

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 18/01/2002

ORAL JUDGEMENT

1. Heard learned counsel Mr.Vikram Thakore and learned senior counsel Mr.J.R. Nanavaty.

2. After arguing at some length, the learned counsel for the petitioners conceded that whether the respondent No.1 was a shop or a commercial establishment to which the Minimum Wages Act applied at the relevant time, whether the original applicant - workmen were temporary and part time employees or not and, even assuming that the provisions of Minimum Wages Act applied to the original applicant, what could have been the due amount of difference for the last six months of their service, are all questions in the realm of disputed facts. The authority under the Payment of Wages Act, has by the impugned judgment, decided those issues of facts against the petitioners and two of the original claimant-workmen have also by now passed away. In such circumstances, the learned counsel submitted that some amount in round figure ought to be paid to the aggrieved workmen or their legal representatives.

3. The learned Senior counsel Mr.Nanavaty called for instructions in that regard and according to the written instructions, a copy of which is placed on record, the respondent No.1 is prepared to pay in full and final settlement of all the claims, the sum of Rs.15,000/- to each of the original applicants and in case of death of two of them, to their heirs in equal proportion. Accordingly, the heirs of each of the original applicant who are joined herein as petitioners shall have to claim and accept that amount not exceeding Rs.15,000/- in respect of each original workman. The above arrangement which is beneficial to the petitioner is accepted and a request is made to pass an order in terms thereof. Accordingly, the petition is partly allowed in the sense that, in terms of the offer of the respondent No.1, the petitioners shall be paid the amount as aforesaid in full and final settlement of all the claims arising from the service of the original applicants under the respondent No.1. Rule is made absolute accordingly with no order as to costs.

sd/-
(D.H. Waghela, J.)

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